

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
At Huntington**

**INTERNATIONAL UNION OF OPERATING ENGINEERS,
LOCAL NO. 132 HEALTH AND WELFARE FUND,
INTERNATIONAL UNION OF OPERATING ENGINEERS,
LOCAL NO. 132 PENSION FUND; INTERNATIONAL
UNION OF OPERATING ENGINEERS, LOCAL NO. 132
APPRENTICESHIP AND SKILL IMPROVEMENT FUND;
INTERNATIONAL UNION OF OPERATING ENGINEERS,
LOCAL NO. 132 ANNUITY AND SAVINGS FUND; and
INTERNATIONAL UNION OF OPERATING ENGINEERS,
LOCAL NO. 132, AFL-CIO,**

Plaintiffs,

v.

Civil Action No. 3:20-cv-00417

**OVERCASH PIPELINE, LLC.,
a North Carolina Corporation,**

Defendant.

COMPLAINT

Your plaintiffs respectfully complain and say unto the Court as follows:

1. Jurisdiction of the Court is invoked under the provisions of Section 502 and 515 of the Employee Retirement Income Security Act of 1974, (ERISA), 29 U.S.C. §§ 1132 and 1145, as amended by the Multiemployer Pension Plan Amendment Act (MPPAA), 29 U.S.C. §§ 1132(g) and 1145, and under Section 301 of the Labor Management Relations Act of 1974, (LMRA), 29 U.S.C. § 185.

2. The Plaintiff, International Union of Operating Engineers, Local No. 132 Health and Welfare Fund (Health Fund), is a non-profit organization operated for the purpose of providing

health and welfare benefits to its participating members and is an "Employee Benefit Plan" as defined by ERISA. The Plaintiff, International Union of Operating Engineers, Local No. 132 Pension Fund (Pension Fund) is a non-profit organization operated for the purpose of providing pension benefits to its participating members and is an "Employee Benefit Plan" as defined by ERISA. The Plaintiff, International Union of Operating Engineers, Local No. 132 Apprenticeship and Skill Improvement Fund (Apprenticeship Fund) is a non-profit organization operated for the purpose of providing training to its participating members and is an "Employee Benefit Plan" as defined by ERISA. The Plaintiff, International Union of Operating Engineers, Local No. 132 Annuity and Savings Fund (Annuity Fund) is a non-profit trust organization operated for the purpose of providing annuity benefits to its participating members and is an "Employee Benefit Plan" as defined by ERISA. The Plaintiff, International Union of Operating Engineers, Local No. 132, AFL-CIO (Union), is a labor organization representing employees for collective bargaining purposes and is a "Union" as defined by the LMRA. The situs of the Plaintiff funds and the Plaintiff Local Union are within the Southern District of the State of West Virginia.

3. Defendant, Overcash Pipeline, LLC., is a North Carolina corporation which, at all times material to this action, was authorized to do business in the State of West Virginia and actively engaged in the construction industry affecting commerce. This Defendant is an "employer" as defined in ERISA.

4. At all times material to this action, the Defendant, Overcash Pipeline, LLC was party to the 2017 National Pipe Line Agreement for the United States of America between the International Union of Operating Engineers and the Pipe Line Contractors Association operating in the United States as currently written and amended, extended or revised by the negotiating

parties from time to time, which agreement provided that the Defendant would pay contributions to the Plaintiff Funds and deduct and pay to the Plaintiff Union working dues on behalf of employees covered by the aforesaid National Pipe Line Agreement.

5. The Defendant has failed to pay the required interest and liquidated damages to the Plaintiff Funds and the administrative dues to the Plaintiff Union for its employees as required by the above referenced National Pipe Line Agreement for all work performed during the months of September 2019 through January 2020.

6. Pursuant to the above referenced Plaintiff Funds' Trust Agreements and Collection Policy, and/or 29 U.S.C. §1132(g)(2), the Defendant was obligated to Plaintiff Funds and Plaintiff Union in the amount of \$8,561.58 for unpaid contributions and administrative dues, together with interest thereon in the amount of \$13,150.54 and liquidated damages in the amount of \$48,666.06 for a total amount owed of \$70,378.18. On May 19, 2020, the unpaid contributions in the amount of \$8,561.58 were paid by a bond through American Southern Insurance Company. Therefore, the Defendant is still obligated to Plaintiff Funds and Plaintiff Union for the interest thereon in the amount of \$13,150.54 and liquidated damages in the amount of \$48,666.06 for a total amount owed of \$61,816.60 as of the date of the filing of this complaint.

7. Pursuant to the above referenced National Pipe Line Agreement, Plaintiff Funds' Trust Agreement and Collection Policy, and/or 29 U.S.C. §1132(g)(2)(D), the Defendant is liable to the Plaintiffs for interest, damages, attorney's fees, costs and penalties.

8. A copy of this complaint will be served upon the Secretary of Labor and Secretary of Treasury as required by ERISA, 19 U.S.C. § 1132(h).

WHEREFORE, Plaintiffs pray this Court will:

- A. Award judgment to the Plaintiffs against the Defendant for the amount of interest and liquidated damages thereon;
- B. Require the Defendant to pay the costs of this proceeding, including attorney fees;
- C. Award Plaintiffs such other and further relief against the Defendants as to the Court may seem meet and proper.

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INTERNATIONAL UNION OF OPERATING
ENGINEERS, LOCAL NO. 132, AFL-CIO
By Counsel

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